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UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte MICHAEL L. OBRADOVICH

Appeal 2008-0370
Application 09/699,031
Technology Center 2100

Decided: May 21, 2008

Before HOWARD B. BLANKENSHIP, JAY P. LUCAS, and STEPHEN C. SIU, *Administrative Patent Judges*.

SIU, *Administrative Patent Judge*.

DECISION ON APPEAL

I. STATEMENT OF THE CASE

Appellants appeal under 35 U.S.C. § 134(a) from the Examiner's final rejection of claims 1 and 2. Claims 3-29 were cancelled. We have jurisdiction under 35 U.S.C. § 6(b). We affirm-in-part.

A. INVENTION

The invention at issue involves a navigation system in which a server calculates the position of a personal computer device and transmits the position information to the device (Spec. 5). If the personal computer device has stopped, the position of the device is determined and the position information is transmitted to the server (*id.* 10). The server returns information to the device on the location at which the device is stopped such as address information or other pertinent information (*id.*).

B. ILLUSTRATIVE CLAIM

Claim 1, which further illustrates the invention, follows:

1. A method, using a personal computer device having a GPS receiver, of populating a database comprising:

determining, by the personal computer device using its GPS receiver, a location at which the personal computer device becomes relatively immobile;

transmitting, by the personal computer device, the location at which the personal computer device becomes relatively immobile to a server;

receiving, by the personal computer device, information regarding the location from the server; and

requesting, by the personal computer device, that the server store the information in a database associated with a user of the personal computer device.

C. REJECTIONS

Claims 1 and 2 stand rejected under 35 U.S.C. § 102(e) as being unpatentable over U.S. Patent No. 6,680,694 ("Knockeart").

II. ANALYSIS

Appellants argue that Knockeart "does not disclose or suggest determining . . . a location at which the personal computer device becomes relatively immobile" (App. Br. 4).

Knockeart discloses an in-vehicle system that "determines the vehicle's initial location or data related to the vehicle's initial location" (col. 21, ll. 32-33). Using a broad but reasonable interpretation, we construe determining an initial location of the vehicle of Knockeart to include determining the location at which the vehicle becomes relatively immobile because the "initial location" would be an indeterminately long area unless the vehicle was relatively immobile. Thus in order for there to be an "initial location" the vehicle must be assumed to be relatively immobile. Because the system determines the vehicle's initial location when the operator specifies the desired destination, and the vehicle is not moving while the operator inputs data into the system (because otherwise there is no single initial location), the vehicle must be "relatively immobile" (i.e., not moving) and the "initial location" is determined at that location (when not moving or "relatively immobile"). "[T]he PTO gives claims their 'broadest reasonable

interpretation.'" *In re Bigio*, 381 F.3d 1320, 1324 (Fed. Cir. 2004) (quoting *In re Hyatt*, 211 F.3d 1367, 1372 (Fed. Cir. 2000)).

Appellant further argues that Knockeart fails to disclose a system that "receives information regarding the location at which the . . . system becomes relatively immobile from the server system" (App. Br. 6). Knockeart discloses that the server system "receives the location data and the destination specification" from the in-vehicle system (col. 21, l. 55) and "determines the vehicle's location" (col. 21, ll. 59-60). The server system then "determines a route . . . (and) . . . a spot map around the vehicle's location that it will download to the vehicle" (col. 22, ll. 33-37). Knockeart discloses downloading the route and spot map information to the in-vehicle system. We find that the route and spot map information includes information "regarding the location" of the in-vehicle system. Therefore, we find that Knockeart discloses that the in-vehicle system receives information regarding the location (i.e., route and spot map information) from the server as recited in claim 1.

It follows that Appellants have failed to demonstrate that the Examiner erred in rejecting claim 1. Therefore, we affirm the rejection of claim 1.

Claim 2 recites evaluating the position of the personal computer device, waiting a preselected time, reevaluating the position of the personal computer and determining if the position is substantially the same. The Examiner finds that Knockeart discloses that "the in-vehicle sends the

estimate position from one of the stopping location along the road (to) the server, the (server) determines the stopping location and plans the new route based on the stopping location which is different from the original position and stopping location" (Ans. 11). Although the Examiner finds that the in-vehicle system determines an estimated location of the vehicle, the Examiner does not demonstrate that Knockeart also discloses that the in-vehicle system also waits a preselected time period, re-evaluates the position, and determines if the positions before and after the preselected time period are substantially the same.

"[A]nticipation of a claim under § 102 can be found only if the prior art reference discloses every element of the claim. . . ." *In re King*, 801 F.2d 1324, 1326 (Fed. Cir. 1986) (citing *Lindemann Maschinenfabrik GMBH v. American Hoist & Derrick Co.,* 730 F.2d 1452, 1457 (Fed. Cir. 1984)). "[A]bsence from the reference of any claimed element negates anticipation." *Kloster Speedsteel AB v. Crucible, Inc.,* 793 F.2d 1565, 1571 (Fed. Cir. 1986). The absence of the in-vehicle system reevaluating the position of the device and determining if the positions before and after the preselected time period are substantially the same negates anticipation. Therefore, we reverse the anticipation rejection of claim 2.

IV. ORDER

In summary, the rejection of claim 1 under § 102(e) is affirmed and the rejection of claim 2 under § 102(e) is reversed.

No time for taking any action connected with this appeal may be extended under 37 C.F.R. § 1.136(a)(1)(iv).

AFFIRMED-IN-PART

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